

CERTIFIED MAIL

APR 16 1986

Dear Sir or Madam:

This is a final determination with respect to the denial of church status under section 170(b)(1)(A)(i) and tax exempt status under Section 501(c)(3) of the Internal Revenue Code, effective March 1, 1977.

This adverse determination was made because your organization failed to submit information showing it to be a church. Because your organization has failed to answer our adverse letter dated January 21, 1986, church nor exempt status cannot be granted to your organization.

We will notify the appropriate State officials, as required by section 6104(a) of the Code, that based on the information we have available, we are unable to recognize you as an organization described in section 501(c)(3) of the Internal Revenue Code.

Since you have not filed an appeal to our letter dated January 21, 1986, it is further determined that your failure to file a written appeal constitutes a failure to exhaust your available administrative remedies for purposes of a declaratory judgment under Code section 7428.

If you decide to contest this determination in court, a petition for a declaratory judgment in the United States Tax Court, United States Claims Court, or the United States District Tax Court of the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgments. Refer to the enclosed Publication 392.

If you have any questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

This is a Determination letter.

Sincerely,


District Director

Enclosure

Publication 812

Internal Revenue Service

Department of the Treasury

OFFICE OF THE DIRECTOR, TAX EXEMPTION DIVISION

District
Director

Date:

Person to Contact:

Telephone Number:

Refer Reply to:

Dear Sir or Madam:

Your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code has been considered.

Under existing procedures, the Service will recognize exempt status only if operations or proposed operations are described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy these requirements. A record of actual operations will be required for organizations that have been in existence before a ruling or determination letter may be issued. The position of the Service in this matter is set forth in section 5 of Revenue Procedure 84-46, 1984-1 Cumulative Bulletin 541.

You were incorporated on [REDACTED], to establish and maintain a free church of gospel ministry; to provide places of public meditation and religious instruction in [REDACTED] [REDACTED] and elsewhere; to establish, maintain, and conduct schools for religious instruction of children and adults; to establish and maintain libraries, reading rooms, and bookstores for the sale and dissemination of authorized publications relating to the teachings of the church; to establish and maintain hospitals, rest homes for the elderly, orphanages and other charitable institutions; to establish, maintain, and conduct retreats and religious camps to minister to the spiritual and physical well-being of members and friends of the church who may regularly or from time to time use such facilities; to sponsor and support missionary gospel ministries throughout the world for religious, educational, and charitable purposes; providing for this purpose care for worthy pastors, their wives, widows, and dependent children in order to advance the belief of the constituency on moral, religious, and denominational matters in the evangelization of the world; to support earnestly the work of cooperating churches having a moral and spiritual congruence with this church in order to promote its ministry, plan, and work; to buy, sell, lease, mortgage or otherwise encumber, hold, or dispose of both real and personal property of the church; to acquire money, securities, land or buildings and hold the same, and to invest or reinvest the same or the income therefrom for the general religious and charitable purposes set forth herein; to further all religious and charitable work, and for such purpose to adopt and establish bylaws, rules, and regulations in accordance with both applicable law and the canons and doctrines of the church.

[REDACTED]
[REDACTED]
[REDACTED] Articles of Incorporation did not provide for the distribution of your assets at dissolution.

Your Constitution (bylaws) of [REDACTED], submitted with your application, showed the purposes of [REDACTED] are to further the purposes and propagate the Creed of [REDACTED] through the individual efforts and the members of [REDACTED]. Such tasks may include, but are not limited to, solicitation of donations, distribution of religious materials, assistance in the organization and conduct of Church religious charitable and social events, evangelical missionary work anywhere in the world, assistance with charitable efforts such as the case of the aged, work in industry, commerce or the professions for the support of the Church, the preparation and delivery of doctrinal lessons and the performance of ceremonies of marriage, baptisms, funerals, and other religious services. This Constitution provides that any member in good standing in the church may apply for membership in [REDACTED]. The applicant will be selected by the prelate of [REDACTED] or his assignee.

It further stated that members may be required by [REDACTED] to take vows of poverty, make irrevocable gift of all their possessions to the Church, and dedicate their lives fully to the benefit of religion and the service of [REDACTED]. Members who accept such an invitation will be entered into the rolls as pauper members and all their temporal needs will be met by [REDACTED] for so long as they remain pauper members in good standing.

A Declaration of Bequest submitted with the application showed that [REDACTED] and wife, [REDACTED], of [REDACTED], gave and delivered certain real properties to the Church on [REDACTED].

[REDACTED], and [REDACTED] all of [REDACTED], are the officers and directors of the organization.

The purposes given in Form 1023 state that you promulgate the tenets of God's laws and commandments, as recorded in the Holy Bible. After you receive tax-free status, you plan to increase the area of promulgating the tenets. At such time you also plan to use selective mailings and professional fund raisers.

You submitted no budgets or financial data regarding your operations for the period from your date of incorporation in [REDACTED], through date of filing in [REDACTED].

[REDACTED]
[REDACTED] members of the governing body will assist assets or income [REDACTED] but did not explain as requested by Form 1023.

[REDACTED] will benefit by having God bless [REDACTED]. Also, you may reduce the price rate. If the Church produces any products, such as "tapes", they would probably be sold, more or less, at cost. You state that it would be ludicrous for the products of the organization to be sold to members only.

Your members are required to be of the same religious persuasion and membership is solicited by word of mouth.

You state that you have no publications, brochures, tracts, etc., regarding your church.

In your application you do not describe your religious beliefs, tenets, or religious practices or services.

On [REDACTED], we requested that you complete your Form 1023 by providing, among other items, your bylaws, a statement of receipts and expenditures for the current and 3 preceding years, a statement of assets and liabilities, and copies of pamphlets, brochures, literature, newsletters, etc. Your letter of [REDACTED], submitted a copy of the Constitution of [REDACTED]. You indicated that the church had no assets being used in furtherance of its exempt purpose (item 7 of part III of the Application), and that this responded to our request for balance sheets and income statements. Furthermore, you "X'd" out pages 5 and 6 of the application (relating to income/expenses and balance sheet), stating that these items were not applicable and therefore not relevant.

On [REDACTED], we requested that you amend your Articles of Incorporation to provide for the distribution of your assets to charitable purposes in the event of your dissolution. This amendment is necessary in order for you to meet the organizational test of section 501(c)(3) of the Code. We further requested that you answer several questions regarding your request for status as a church within the meaning of section 509(a)(1) and 170(b)-(1)(A)(i) of the Code and that you provide us with financial data relating to your operations since [REDACTED] and that you provide us with a detailed budget for your next 2 years of operation. Additional questions were asked regarding the vows of poverty, assignment of assets by officers, and secular employment of your officers.

On [REDACTED], you responded to our letter of [REDACTED], by stating that you considered that letter to constitute discrimination and harassment. You stated, "The First Amendment to the United States Constitution states, 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;...' The IRS is an arm of the federal government, therefore, the Church suggest that you discuss the discrimination, harassment, prohibiting the Church from having all the rights, privileges, free exercise of religion, tactics by denying the Church its right to expand to its greatest potential, with your supervisor, [REDACTED], District Director, and grant [REDACTED] exemption from taxes." You did not submit any amendments or additional information in support of your request. Nor did you respond to our specific questions.

On [REDACTED], we sent you another letter explaining the reasons for requesting additional information. You were advised that organizations will not be treated as exempt under section 501(c)(3) unless they file notice with the Internal Revenue Service under section 508(a) of the Code. Churches are not required to file for exemption. However, the Internal Revenue Service will not issue letters of recognizing the exempt status of a church unless it does file and meet all the necessary requirements. The necessary requirements under that section are that you meet the organizational and operational tests. In order to do that, your organizational documents must contain certain proper purposes and dissolution provisions and you must show that you are operating exclusively for exempt purposes and not operating for the private benefits of individuals. We requested that you provide the information requested in our [REDACTED] letter and some additional information regarding your affiliation with "[REDACTED]" and the use of property donated to you by your founder and principal officers. We requested that you submit the information within 10 days or your case would be closed and you may be considered to have forfeited your rights to a declaratory judgment under section 7428 of the Code.

On [REDACTED], you submitted a letter stating that you have submitted a completed Form 1023 and requested we send you a determination letter classifying you as exempt and as a church. You did not respond to any questions in our previous correspondence.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(3) Corporation, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involved the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1 of the Regulations provides, in part as follows:

"(a)(1) In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt."

"(b)(4) Distribution of assets on dissolution. An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal Government, or to a State or local government, for a public purposes, or would be distributed by a court to another organization to be used in such manner as in the judgment of the Court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders."

"(c)(1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of

such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

"(c)(2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals."


"(d)(1)(ii) An organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this subparagraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interest."

In United States v. Seeger, 380 US 163 (1965), the Supreme Court considered the term "Religious beliefs" as used in the Military Selective Service Act. The Court stated that a sincere and meaningful belief that occupies a place in the lives of its possessors parallel to that filled by orthodox beliefs in God is, in effect, a religious belief.

In the case of American Guidance Foundation, Inc. v. U.S., 80-1 USTC 9452 (D.D.C. 1980), the court stated:

"Faced with the difficult task of determining whether or not religious organizations are in fact churches, the IRS has developed fourteen criteria which it applies on an ad hoc basis to individual organizations. The criteria applied are as follows:

- (1) a distinct legal existence
- (2) a recognized creed and form of worship
- (3) a definite and distinct ecclesiastical government
- (4) a formal code of doctrine and discipline
- (5) a distinct religious history

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- (6) a membership not associated with any other church or denomination
 - (7) an organization of ordained ministers
 - (8) ordained ministers selected after completing prescribed studies
 - (9) a literature of its own
 - (10) established places of worship
 - (11) regular congregations
 - (12) regular religious services
 - (13) Sunday schools for religious instruction of the young
 - (14) schools for the preparation of its ministers.

While some of these are relatively minor, others, e.g., the existence of an established congregation served by an organized ministry, the provision of regular religious services and religious education for the young, and the dissemination of a doctrinal code, are of central importance."

The court went on to state that, "At a minimum, a church includes a body of believers or communicants that assembles regularly in order to worship. Unless the organization is reasonably available to the public in its conduct or worship, its educational instruction, and its promulgation of doctrine, it cannot fulfill this associational role."

The court also stated that, "It is not enough that a corporation believes and declares itself to be a church. Nor is it sufficient that the applicant prepare superficially responsive documentation for each of the established IRS criteria."

In the instant case, the court ruled that the organization did not employ recognized, accessible channels of instruction and worship and that there was little evidence that it sought to reach or service a congregation. In closing, the court stated, "Private religious beliefs, practiced in the solitude of a family living room, cannot transform a man's home into a church."

[REDACTED]

Revenue Ruling 81-94, 1981-1 C.B. 15, held that a "church" that was formed by a professional nurse (who is also the "church's" minister, director and principal officer) and that is used primarily as a vehicle for handling the nurse's personal financial transactions, is not exempt.

In the case of Bubbling Well Church of Universal Love vs. Commissioner, 74TC, 39, the court ruled that the organization did not qualify for exemption under section 501(c)(3) of the Code because they had not established that no part of petitioner's net earnings inured to the benefit of private individuals.

The court further held that the organization did not meet its burden of proof. They noted that the organization had not affiliation with any denomination or ecclesiastical body and was not subject to any outside interference or influence in the control of the organization's affairs, preparation of its budget and expenditure of its funds, and the organization could operate in this manner indefinitely.

The court indicated that while the domination by the three founders alone may not necessarily disqualify the organization for exemption, it provides an obvious opportunity for abuse of the claimed tax-exempt status. The court noted that such a situation calls for an open and candid disclosure of all facts bearing upon the organization, operation and finances so that the court, should it uphold the claimed exemption, could be assured that it was not conditioning an abuse of the revenue laws, the court also stated that if disclosure is not made, the logical inference is that the facts if disclosed, would show that the organization fails to meet the requirements of section 501(c)(3).

In the case of The Founding Church of Scientology vs United States 1909-2 U.S.T.C. 9530 (ct of Cls. 1969) the Court held that a religious organization did not qualify for tax exempt status under section 501(c)(3) of the Code because of part of the organizations's net earnings inured to the benefit of private individuals.

In your application for exemption and supporting documents, your activities are presented in general terms. You have not provided us with any additional information to show that you are conducting church services, that you have a membership that meets regularly for religious services, that you have a creed and form of worship, that you have a membership not associated with any other church or denomination, that you have a literature of your own, or "Sunday schools" for the religious instruction of the young people of

[REDACTED]

1. your congregation. You have not provided necessary financial information regarding any of your operations since incorporation. You have indicated that such is irrelevant; however, there is evidence that you have had financial activities as certain properties have been denoted to you. You have not provided information that would serve to show that you are not operated for the private benefit of your founders or other individuals. Nor have you amended your Article of Incorporation in order to meet the organizational requirements of section 501(c)(3) of the Code.

2. Accordingly, since the information submitted does not clearly show that you have been and will be operated exclusively for religious purposes, or that you meet any of the criteria for church classification, or that you are not operated for the private benefit of your founders or other individuals and that no funds now or will inure to the benefit of individuals, a determination on your status under section 501(c)(3) cannot be made at this time. Furthermore, since you do not provide for the permanent dedication of your assets to charitable purposes through a provision in your Articles of Incorporation that such assets will be distributed to charitable organizations at your dissolution, you do not meet the organizational test of section 501(c)(3) at this time.

3. You may if you desire, resubmit an application for exemption containing sufficient information to show that you actually operate and will operate in furtherance of your stated purposes to an extent to clearly show your character and method of operation. In order to adequately demonstrate that you have, or have not operated in a manner consistent with exemption under section 501(c)(3) and section 509(a)(1) and 170(f)(1)(A)(i) of the Code, you should submit records and statements that will provide the information requested in our correspondence of [REDACTED], and [REDACTED].

4. If you do not agree with these conclusions, you may within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

5. If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

6. If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "7 declaratory judgment or decree under

[REDACTED]

this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 5104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible. You should also file the enclosed Federal income tax return(s) within 30 days with the Chief, Employee Plans/Exempt Organizations Division 1100 Commerce, Dallas, Texas 75242.

Sincerely

[REDACTED]
District Director

Enclosures:

Publication 892
Form 6018
Procedure 84-46